

ABlawg: Year in Review 2020

By: Admin

Dedication

This year in review post is dedicated to the memory of Joseph J. Arvay, Q.C., O.C., O.B.C., who passed away suddenly on December 7, 2020. As the [In Memoriam](#) page on the website of his firm Arvay Finlay notes, Joe was “one of the most brilliant and successful constitutional and civil liberties lawyers of his time.” He represented parties in “some of the defining cases of our generation including, among many others, medical assistance in dying, access to legal safe injection sites, the right of workers to associate in pursuit of workplace goals, and LGBTQ rights.”

For many bloggers on this site, Joe was both a hero and a role model.

ABlawg is pleased to provide this compilation of highlights from 2020, summarizing and synthesizing bloggers’ contributions in different areas of law during the past year. Overall, it was a busy year that included important commentary on a range of matters, including, of course, various dimensions of COVID-19.

The Numbers

ABlawg published a total of 133 posts in 2020. The number of hits recorded on ABlawg continues to rise each year, with a significant spike in 2020. The post that generated the most hits this year - a whopping 28,835 - was [Protests Matter: A Charter Critique of Alberta’s Bill 1](#), co-authored by Jennifer Koshan, Lisa Silver, and Jonnette Watson Hamilton. The runners up were three posts by Shaun Fluker - [COVID-19 and the Public Health Act \(Alberta\)](#) (10,377 hits) , [COVID-19 and the Emergencies Act \(Canada\)](#) (7358 hits); [Vavilov on Standard of Review in Canadian Administrative Law](#) (7299 hits) – and [Supreme Court of Canada Finally Addresses Racial Profiling by Police](#) authored by Meryl Friedland (6708 hits). This year, ABlawg also passed the 2500 followers mark on Twitter.

Nigel Bankes once again had the most output on ABlawg this year, authoring 29 posts, followed by Shaun Fluker with 16, Jennifer Koshan and Jonnette Watson Hamilton with 11 each, and Lisa Silver with 9.

In the Courts

The [CanLII](#) database shows ABlawg posts cited in 6 decisions during the year, including a citation by the Supreme Court of Canada in *R v Friesen*, [2020 SCC 9 \(CanLII\)](#) to [Sentencing to the Starting Point: The Alberta Debate](#), a post written by Lisa Silver in 2019 analyzing the use of

starting points by sentencing courts to determine a fair, just and proportionate sentence for a conviction. This marks the third time the Supreme Court of Canada has cited ABlawg.

In concurrent decisions quashing vexatious litigant orders issued by the Court of Queen's Bench, the Alberta Court of Appeal cited two of Jonnette Watson Hamilton's posts on the subject: [The Increasing Risk of Conflating Self-Represented and Vexatious Litigants](#) in *Jonsson v Lymer*, 2020 ABCA 167 (CanLII) and [Three Leaves to Appeal the Claimed Jurisdiction of Court of Queen's Bench Over Vexatious Litigants](#) in *Makis v Alberta Health Services*, 2020 ABCA 168 (CanLII).

Nigel Bankes' post [Payout under Alberta's Oil Sands Royalty Regulation](#) was referenced by *Hudson King v Lightstream Resources Ltd*, 2020 ABQB 149 (CanLII), in relation to the interpretation of an oil & gas net profits interest agreement. Jonnette Watson Hamilton's comment on *Lemoine v Griffith*, 2014 ABCA 46 (CanLII) in [What is the Legal Effect of an Unenforceable Agreement in an Unjust Enrichment Claim?](#), concerning the legal effect of an unenforceable prenuptial agreement, was referenced by *Hicks v Gazley*, 2020 ABQB 178 (CanLII). And finally, *RT v Alberta*, 2020 ABQB 655 (CanLII), a decision concerning the removal of a lawyer of record from litigation, cited [Counsel Shall Not Bear Witness: Clarifying the Obligation of Counsel to Withdraw When Required to be a Witness](#), a post written in 2008 by then Professor Alice Woolley (now the Honourable Madam Justice Woolley).

Area-Specific Posts in 2020

Administrative Law

At the end of 2019, the Supreme Court of Canada gave judgment in a series of three cases dealing with the standard of review in administrative law: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 (CanLII), *Bell Canada v Canada (Attorney General)*, 2019 SCC 66 (CanLII) (also known as the *Super Bowl Case*) and *Canada Post Corp v Canadian Union of Postal Workers*, 2019 SCC 67 (CanLII). ABlawg offered two assessments of the main decision of the trilogy, *Vavilov*, in the early part of the year and has also featured a number of posts examining how *Vavilov* has been implemented. This latter group of posts is necessarily selective: as of the end of December 2020, *Vavilov* had already been cited in almost 1,700 cases.

The [first ABlawg assessment](#) of *Vavilov* focused on the part of the majority decision which concluded that the existence of a statutory appeal provision constituted a legislative direction to the effect that the standard of review for such an appeal should be the appellate standard: i.e. correctness for extricable points of law and palpable and overriding error for questions of fact or mixed questions of fact and law. That post was critical of this development and speculated that legislatures might be tempted to indicate otherwise and stipulate that the standard of review should be the same as in a judicial review application: i.e. reasonableness subject to the exceptions articulated in *Vavilov*. While provincial legislatures do not seem to have acted broadly on this suggestion, there is at least one example of this development in Alberta's recently introduced [Bill 48](#). This Bill, amongst other things, establishes a new meta-tribunal to be known as the Land and Property Rights Tribunal and section 19 of the Bill [as amended on December 2](#),

[2020](#) currently provides: “On an application for judicial review, leave to appeal, or appeal of the Tribunal’s decision or order, the standard of review to be applied is reasonableness”.

The [second ABlawg assessment](#) of *Vavilov* provided (1) an overview on the law regarding standard of review up to *Vavilov*; (2) the law as per *Vavilov* on selecting the standard of review; and (3) the law as per *Vavilov* on applying the standard of reasonableness. Another *Vavilov*-related post examined the application of the reasonableness review standard to ministerial decisions for which the minister provides no reasons. This was a post on the Alberta Court of Appeal’s decision in *Alexis v Alberta (Environment and Parks)*, [2020 ABCA 188 \(CanLII\)](#) (leave to appeal denied *sub nom* *Wayfinder Corp. v Armin Alexis, et al*, [2020 CanLII 92502 \(SCC\)](#)). The post [The Discipline of Vavilov? Judicial Review in the Absence of Reasons](#) suggested that the decision supports the view that a reasonableness analysis post-*Vavilov* will require a “hard look” and greater scrutiny in light of the object and purposes of the relevant statutory provisions.

Finally, later in 2020 a two-part post ([here](#) and [here](#)) by Howard Kislowicz and Robert Hamilton examines the application of *Vavilov* in the context of the Crown’s duty to consult and accommodate Indigenous communities. The authors suggest that it is inappropriate to apply the reasonableness standard of review to determinations by the Crown as to the adequacy of its own consultation activities. Instead, they argue that such determinations should attract review on correctness grounds given the constitutional significance of such determinations.

Constitutional Law

Jennifer Koshan, Lisa Silver, and Jonnette Watson Hamilton published a [post on Bill 1](#), the *Critical Infrastructure Defence Act*, [SA 2020, c C-32.7](#), and its potential violation of several *Charter* rights and freedoms, including expression, peaceful assembly, association, liberty and equality. This post received a record number of hits on ABlawg, as noted above, and led to several media interviews for the authors. A [second post on Bill 1](#) by former students Alexandra Heine and Kelly Twa focused on the federalism issues presented by Bill 1 and its possible breach of Aboriginal and Treaty Rights.

Jonnette Watson Hamilton and Jennifer Koshan wrote about the Supreme Court of Canada’s ground-breaking decision on adverse effects discrimination against women under section 15 of the *Charter* in *Fraser v Canada (Attorney General)*, [2020 SCC 28 \(CanLII\)](#), [here](#). Jennifer and Jonnette are both writing longer pieces on *Fraser* that will be published in the Constitutional Forum in the new year. This pair of frequent collaborators also posted a comment on a costs decision in section 15 litigation brought by the Elder Advocates of Alberta Society, and its implications for access to justice, [here](#).

Jennifer Koshan and Joe Koshan wrote the first mother-son [contribution to ABlawg](#), reviewing the Supreme Court of Canada’s oral hearing in *Ontario (Attorney General) v G*, [2020 SCC 38 \(CanLII\)](#) and correctly predicting the outcome: a breach of section 15 of the *Charter* given the lack of exit ramps from the sex offender registry for persons found not criminally responsible, as well as a split in the Court on the issue of remedy. Also at the intersection of criminal law and the *Charter*, Jonnette Watson Hamilton blogged on an important Alberta Court of Appeal

decision on habeus corpus [here](#); Lisa Silver discussed the right “not to be denied reasonable bail without just cause” in *R v Zora*, [2020 SCC 14 \(CanLII\)](#) [here](#) and reviewed a quasi-criminal municipal signage bylaw and freedom of expression [here](#); and Drew Yewchuk and Sarah Shibley looked at the public interest in *Charter* litigation in a case involving the Toronto Police Services Board [here](#).

In 2020, ABlawg also saw a series of guest bloggers contribute comments on a number of constitutional issues: [a Charter challenge to the Mental Health Act](#) (by Fraser Gordon); the constitutionality of [Bill 32, Restoring Balance in Alberta’s Workplaces Act, 2020](#) (by Colin Feasby); the [freedom of religion issues](#) left open after the Supreme Court of Canada’s denial of leave to appeal in the *Church of Atheism of Central Canada v MNR*, [2019 FCA 296 \(CanLII\)](#) (by Kathryn Chan and Howard Kislwicz); and racial profiling by the police (in two posts by both [Meryl Friedland](#) and [Brynne Harding](#); see also the posts of our former colleague Asad Kiyani on policing [here](#) and [here](#)). Bloggers from the Alberta Civil Liberties Research Centre wrote about [the rights of young adults to social assistance](#) (by Myrna El Fakhry Tuttle) and the [application of the Charter to universities](#) (by Linda McKay-Panos).

In the federalism context, Nigel Bankes blogged on the significance of misnaming the *Constitution Act, 1867* as the *British North America Act* in the Report of the Fair Deal Panel [here](#).

Environmental Law

2020 was a busy year for blogging about environmental law. The series kicked off in February with ABlawg welcoming University of Alberta Business School Professor – and recent LLM graduate – Andrew Leach to the fold, who together with Martin Olszynski embarked on [Clearing the Air on Teck Frontier \(Extended ABlawg Edition\)](#). Shortly thereafter, the Alberta Court of Appeal broke ranks with its Saskatchewan and Ontario cousins in the third of three reference cases on the constitutionality of the federal government’s *Greenhouse Gas Pollution Pricing Act*, [SC 2018, c 12, s 186](#), which Martin Olszynski, Nigel Bankes, and Andrew Leach blogged about in [Alberta Court of Appeal Opines That Federal Carbon Pricing Legislation Unconstitutional](#). This was followed by a series of posts by Shaun Fluker with respect to COVID-19 and its impact on Alberta’s legal system, both in and outside of the natural resource contexts: [COVID-19 and the Suspension of Routine Environmental Reporting in Alberta](#); [COVID-19 and the Suspension of Environmental Monitoring in the Oil Sands](#) (non-environmental/natural resources law related COVID-19 posts are referred to in other parts of this post).

The year was also important from the perspective of the growing salience of the oil and gas sector’s staggering but still largely unfunded environmental liabilities: see Nigel Bankes, [Bill 12: A Small Step Forward in Managing Orphan Liabilities in Alberta](#); Nigel Bankes, Shaun Fluker, Martin Olszynski and Drew Yewchuk: [Governance and Accountability: Preconditions for Committing Public Funds to Orphan Wells and Facilities and Inactive Wells](#). David Wright also wrote or co-wrote a series of blogs on legal developments with respect to climate change, especially but not exclusively in the impact assessment context: see [Final Strategic Assessment on Climate Change: Zero Net Effect?](#); [Climate Change in Federal Impact Assessment: An Early Look at Two Energy Projects](#) (with JD 2020 candidate Niall Fink); [Revisions to the two-month-](#)

[old Impact Assessment Act Climate Change Guidance... Already?](#); and finally [Bill C-12, Canadian Net-Zero Emissions Accountability Act: A Preliminary Review](#), while Shaun Fluker continued to keep Albertans and Canadians informed of developments with respect to species at risk: See [The Cost of Justice for the Western Chorus Frog](#) and [Canada and Alberta Agree to More Pie-In-The-Sky on Woodland Caribou](#).

The year was capped off with Nigel Bankes, joined by first-time ABlawger Cheryl Bradley, setting out recent developments in the legal landscape (or perhaps watershed in this case) for securing water rights in the South Saskatchewan River basin in the wake of the Alberta government's rescission of the 1976 Coal Policy and growing proposals for coal mining in Southwestern Alberta in [Water for Coal Developments: Where Will It Come From?](#).

COVID-19

ABlawg provided commentary on legal and governance issues associated with the extraordinary exercise of executive and other delegated legislative powers to address the COVID-19 pandemic: [COVID-19 and the *Public Health Act* \(Alberta\)](#), [The Effects of COVID-19 on the Health System: Legal and Ethical Tensions Part I](#), [COVID-19 and Retroactive Law-Making in the *Public Health \(Emergency Powers\) Amendment Act* \(Alberta\)](#), [COVID-19 and the Exercise of Legislative Power by the Executive](#), [When Are the COVID-19 Related Changes and Suspensions to Albertan Law Scheduled to End?](#), [Some Comments on Bill 24, the *COVID-19 Pandemic Response Statutes Amendment Act, 2020*](#), [COVID-19 and Masking in Alberta K-12 Schools](#), [COVID-19 and Rule by Fiat under Alberta's *Public Health Act*](#), and [COVID-19 and Cabinet Secrets](#).

ABlawg also covered the exercise of executive COVID-19 powers in specific legislative and public policy areas (also cited elsewhere in this year-end post):

- **Environmental:** Shaun Fluker authored [COVID-19 and the Suspension of Energy Reporting and Well Suspension Requirements in Alberta](#), [COVID-19 and the Suspension of Environmental Monitoring in the Oil Sands](#), and [COVID-19 and the Suspension of Routine Environmental Reporting in Alberta](#);
- **Health, vulnerable communities, and long-term care:** Lorian Hardcastle authored [The Effects of COVID-19 on the Health System: Legal and Ethical Tensions Part II](#), [A Balancing Act: Re-Opening Provincial Economies while Prioritizing Health Risks to Vulnerable Groups](#) (co-authored with Naomi Lightman) and [The Tragic Effects of COVID-19 in the Long-Term Care Sector](#);
- **Domestic violence:** Jennifer Koshan authored [Domestic Violence and Legal Responses to COVID-19 in Alberta](#), [Domestic Violence and Legal Issues Related to COVID-19, Part II](#), and [COVID-19, Domestic Violence, and Technology-Facilitated Abuse](#) (co-authored with Janet Mosher and Wanda Wieggers);
- **Privacy:** Emily Laidlaw, Greg Hagen and Joel Reardon authored [COVID-19 and Cellphone Surveillance](#);

- Residential tenancies: Jonnette Watson Hamilton authored [Residential Tenancies in Alberta: Evictions for Non-Payment of Rent No Longer Suspended, Can an Alberta Landlord’s Duty to Make Reasonable Efforts to Negotiate a Meaningful Payment Plan with Residential Tenants before Evicting Tenants be Enforced?](#), and [Tenant’s Insurance, Ministerial Order No SA:005/2020 and Evictions of Residential Tenants](#);
- Criminal law: Lisa Silver authored [Regulating COVID-19 From the Criminal Law Perspective](#);
- Civil litigation and legal ethics: Gideon Christian authored [Lawyer Ethics in the Virtual Courtroom](#) and [eQuestioning: Oral Questioning in Litigation in the Era of Social Distancing](#).

Health Law (Non-COVID)

In addition to managing the COVID-19 pandemic, the government amended several health-related statutes and implemented a number of budget cuts to the health care system. In [Recent Health System Reforms: Sustainability Measures or a Push to Privatization?](#), Lorian Hardcastle addresses these policy changes, which include cutting nursing positions, terminating the billing agreement with physicians, cutting payments under the Assured Income for the Severely Handicapped program, and significantly increasing the number of publicly-funded procedures delivered in private surgical facilities. In September, the British Columbia Supreme Court upheld the province’s limits on privately-financed health care services in *Cambie Surgeries Corporation v British Columbia (Attorney General)*, [2020 BCSC 1310 \(CanLII\)](#). In the first of two posts on this case, Lorian [summarized](#) the 880-page decision, in which the Court found sufficient evidence that privately-financed healthcare would detrimentally affect the public system. The second post [considered](#) the implications of this case for Alberta.

Domestic Violence

Jennifer Koshan contributed three posts on domestic violence and COVID-19, also known as the “shadow pandemic.” The [first](#) explored changes to application procedures for emergency protection orders and court directives and early case law on whether matters were urgent enough for courts to hear. The [second](#) examined gaps in the law for survivors of domestic violence living on First Nations reserves, as well as employers’ obligations under occupational health and safety laws for potential victims of domestic violence working at home during the pandemic. The [third](#), co-authored with Janet Mosher and Wanda Wieggers, analyzed case law during the first few months of the pandemic dealing with technology-facilitated abuse.

In addition to her COVID-related posts on the shadow pandemic, Jennifer blogged on several other developments on domestic violence law and policy. In January, she reviewed the Family Violence Death Review Committee’s 2019 reports [here](#). With former student Irene Oh Wilkins, [she analyzed](#) the Alberta Court of Appeal’s decision in *DAF v SRG*, [2020 ABCA 25 \(CanLII\)](#), making the case for a Unified Family Court in Alberta. And earlier this month, with co-authors

Janet Mosher and Wanda Wiegers, Jennifer made an [announcement on ABlawg](#) about the publication of a new eBook on domestic violence laws across Canada.

Energy, Oil and Gas and "New" Resources Law

While there is continued progress in decarbonizing the economy, that old carbon economy still generates some oil and gas litigation although the number of decided cases (at least in the Alberta courts) does seem to be declining. Perhaps the most interesting Alberta case in many ways was Justice Woolley's judgment in *Hudson King v Lightstream Resources Ltd*, [2020 ABQB 149 \(CanLII\)](#), which ABlawg covered under the title [Net Profits Interest Decision](#) (although this decision is on appeal). Given the relatively small number of Alberta oil and gas cases, ABlawg also reports on oil and gas case law in other jurisdictions – principally England, given the importance of the English courts as a forum for resolving oil and gas disputes from around the world as well as the significance of the North Sea as a producing province. This year was no exception with posts dealing with [Consent Provisions in Long-Term Relational Contracts](#) (*Apache North Sea Ltd v Ineos FPS Ltd*, [\[2020\] EWHC 2081 \(Comm\)](#)), the absence of [Implied Duties When Voting to Discharge an Operator](#) (*TAQA Bratani Ltd et al v RockRose UKCS8 LLC*, [\[2020\] EWHC 58 \(Comm\)](#)) and a case dealing with the [Relationship Between a Farmout Agreement and a Joint Operating Agreement](#) (*Apache North Sea Ltd v Euroil Exploration Ltd* [\[2019\] EWHC 3241 \(Comm\)](#)).

One surprise this year was the appearance of three oil and gas lease continuation cases coming out of Manitoba. These cases were *Corex Resources Ltd. et al. v 2928419 Manitoba Ltd.*, [2020 MBQB 47 \(CanLII\)](#) and *6660894 Canada Ltd. v 57110 Manitoba Ltd.*, [2020 MBQB 50 \(CanLII\)](#) commented on under the title [Two Manitoba Oil and Gas Lease Termination Cases](#) and then later in the year *Fire Sky Energy Inc. v EverGro Energy Corporation*, [2020 MBQB 133 \(CanLII\)](#) which was the subject of a post entitled [Another Manitoba Oil and Gas Lease Termination Decision](#).

The electricity sector also generated a number of posts. One issue that continued to be contentious this year was the ability of a generator to both self-supply and sell any surplus into Alberta's power pool. The general rule is that a generator must offer its energy into the power pool and load must meet its energy needs from the grid. There are a number of exceptions to this rule including the so-called "industrial system designation." It was therefore worthy of comment when the Alberta Utilities Commission "[... Reject\[ed\] an Application for an Industrial System Designation](#)". That same post also commented on an AUC discussion paper on [Self-supply and export – Alberta Utilities Commission discussion paper](#).

Other energy posts examined such things as the Market Surveillance Administrator's [Investigation into the Bidding Practices of the Balancing Pool](#), [Community Generation Projects in Alberta](#), the competition for the use of underground pore space ([Different Uses of Subsurface Storage Space: Natural Gas Storage or Compressed Air Energy Storage?](#) and [More Competition For Underground Disposal Space](#)), and the Alberta Energy Regulator's disposition of [a common carrier and rateable take order](#).

ABlawg also covered some legal developments pertaining to “new” sources of energy including a [post on geothermal energy](#), a post on [compressed air energy storage](#) and a post on lithium. Lithium may not be an energy source but, as explained by Rudiger Tscherning and co-author Brady Chapman, it is “... [a Critical and Strategic Mineral for Clean Tech Battery Storage Technologies](#).” Another “new” non-energy resource that ABlawg covered was helium with a post on [considerations in the design of a royalty regime for helium](#).

Law and Technology

Several ABlawg posts examined technology law related issues. Some of the posts concerned technology and the impact of COVID-19. Gideon Christian authored commentaries on [eQuestioning: Oral Questioning in Litigation in the Era of Social Distancing](#) and [Lawyer Ethics in the Virtual Courtroom](#). As mentioned above, Jennifer Koshan, Janet Mosher and Wanda Wiegers brought to light shadow pandemic issues of domestic violence in [COVID-19, Domestic Violence, and Technology-Facilitated Abuse](#). Greg Hagen, Emily Laidlaw and Joel Reardon (from the Department of Computer Science) authored a post examining the technical and legal risks of contact tracing apps in [COVID-19 and Cellphone Surveillance](#).

Other posts examined law and policy developments. Lisa Silver and Gideon Christian commented on the use of artificial intelligence and algorithms in the criminal justice system in [Harnessing the Power of AI Technology; A Commentary on the Law Commission of Ontario Report on AI and the Criminal Justice System](#). Jassmine Girgis commented on *Uber Technologies v Heller*, [2020 SCC 16 \(CanLII\)](#) in [The Expansion of Unconscionability – The Supreme Court’s Uber Reach](#). Emily Laidlaw examined Bill C-11, which proposes a new consumer privacy legal framework, in [Canada’s Proposed New Consumer Privacy Protection Act: The Good, the Bad, the Missed Opportunities](#). Gideon Christian authored multiple posts on current and emerging issues in legal practice, in [eLitigation – Training Future Litigators for the Profession They Will Join](#) and [Revisiting the Doctrine of Spoliation in the Age of Electronic Documents](#).

Criminal Law

Lisa Silver wrote a number of posts on criminal law for ABlawg. She commented on automatism ([Does the Criminal Law Have the Capacity to Respond to the Intoxicated Automaton?](#)), objective *mens rea* ([Being in the Moment: An Analysis of the Supreme Court of Canada’s Decision in R v Chung](#)), extradition ([Extraditing the Individual in the Meng Wanzhou Decision](#)) and sentencing ([Like A House of Cards: The Sentencing Decision in R v McKnight](#)). Lisa also contributed to ABlawg’s coverage of COVID-19 in [Regulating COVID-19 From the Criminal Law Perspective](#).

Property Law

2020 was a relatively busy year for property law, with nine posts in the area. Five concerned residential tenancies, three were related to COVID-19, two were about dower rights, two about foreclosures, one about bailment and one about land titles.

Three of the five residential tenancies posts considered Ministerial Orders that offered some pandemic-related relief for renters until mid-August. [Residential Tenancies in Alberta: Evictions for Non-Payment of Rent No Longer Suspended](#) considered what was available to tenants after the suspension of evictions expired on April 30, and [Can an Alberta Landlord's Duty to Make Reasonable Efforts to Negotiate a Meaningful Payment Plan with Residential Tenants before Evicting Tenants be Enforced?](#) considered [Ministerial Order No SA:005/2020](#) which prohibited landlords from evicting tenants or recovering arrears of rent unless tenants had breached an agreed payment plan or the landlord made reasonable efforts to enter into a meaningful payment plan. The third post, [Tenant's Insurance, Ministerial Order No SA:005/2020 and Evictions of Residential Tenants](#) looked at the only reported case applying that Ministerial Order, as well as whether a tenant's failure to produce evidence of tenant's insurance was a "substantial breach" that entitled a landlord to evict the tenant. One of the non-pandemic posts related to residential tenancies was [Are Landlords' Late Payment Fees Enforceable?](#), which focused on distinguishing between late payment charges that are penalties – and therefore unenforceable – and late payment charges that are pre-estimates of the landlord's damages and enforceable. The other, [A Cautionary Tale about Suing in the Name of the Correct Legal Entity](#), looked at the need for landlords who run their business through a corporation to name the correct legal entity the first time they sue.

[Does the Dower Act Still Serve a Useful Purpose? ALRI Wants to Hear From You!](#) was the first dower post. It noted potentially disproportionate penalties for non-compliance as one issue with the current law. Three weeks later, [Forgery, Fraud and the Dower Act](#) was posted, discussing a Court of Appeal decision confirming that non-compliance with the *Dower Act*, [RSA 2000, c D-15](#) resulted in a mortgage becoming unenforceable in the context of a foreclosure action. That post also discussed the forgery issues that the lower courts had grappled with, but the Court of Appeal ignored. The second foreclosure post involved a very different type of case. [Keeping an Eye on Foreclosing Banks](#) was about a Master who discovered a bank was providing misleading evidence in order to take a person's home away from them more quickly than allowed at law.

Finally, [Ranchman's Receivership: Exploring Different Proprietary Rights in the Memorabilia](#) focused on the news that when Ranchman's, one of Calgary's iconic country bars, had closed its doors, its receiver had seized Ranchman's assets that included historic saddles and other memorabilia that had been loaned to the bar by rodeo stars. Although the receiver decided to release the memorabilia to the owners, the post explored whether or not the receiver had a good claim, and on what basis.

Aboriginal Law and Indigenous Law

Several ABlawg posts commented on developments in the law pertaining to Indigenous peoples in Canada. As noted above in relation to *Vavilov*, Howard Kislowicz and Robert Hamilton authored a two-part commentary focused on the standard of review and the duty to consult and accommodate ([here](#) and [here](#)). Recent graduates Alexandra Heine and Kelly Twa provided insights on Bill 1 and Aboriginal rights under section 35 in their post, [Bill 1: Criminalizing Protests and Encroaching on Aboriginal and Treaty Rights](#). Scott Carrière, also a recent graduate, wrote a [post](#) about the BC Court of Appeal decision in *R v Desautel*, [2019 BCCA 151 \(CanLII\)](#) and the interplay between Canadian sovereignty and Aboriginal rights. Finally, Nigel Bankes

[commented](#) on the Alberta Court of Appeal Decision in *Fort McKay First Nation v Prosper Petroleum Ltd*, [2020 ABCA 163 \(CanLII\)](#), an important decision with regards to the honour of the Crown in regulatory tribunal contexts and with respect to constraints that cumulative impacts may have on the Crown’s power to take up lands under the numbered treaties . One of the counsel for the First Nation in that case was the late Joe Arvay QC.

Concluding Thoughts

Thanks to all our followers for reading ABlawg. We look forward to engaging with you in 2021.

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